

REMARKS

Applicant has cancelled claims 12-15 and added claims 16-17. Thus, claims 1-11 and 16-17 are pending in this application.

In the Office Action, the Examiner rejected all pending claims under 35 U.S.C. Section 102(b) or Section 103(a) under a combination of the following references: Potter (US Patent No. 6178655); Fain (US Patent No. 4649649); Johnson (US Patent No. 6513261); and Betts (US Patent No. 5430952). Although all claims have been amended, Applicant traverses these rejections to the extent that they apply to the claims as amended.

According to the present invention, there are several important features that are novel.

As discussed in the previous Amendment, one novel feature of the invention of claim 1 is that the tape measure casing allows for a precise cutting or marking using only a single hand. As shown, for example, in FIG. 6, the invention has an indicator window 26 (see plan view of FIG. 8a) which has an indication mark 44 positioned to be in line with measurement increments arranged on the tape measure. A marker 42 is aligned with the indication mark 44 such that a user views the measuring tape through the window 26, aligns the indication mark against a measuring increment on the tape, and then marks the object with the marker 42 by simply pressing down on the marker. Because the **marker 42 is aligned with the indication mark**, the user is able to make a precise mark on the object at the aligned measurement increment **using only a single hand and only a single hand** (see paragraphs 37 and 38 of the present specification).

Another important feature of the present invention is that the marker housing is located above the bottom surface of the case. This feature allows a user to place the tape measure case flat on an object surface to prevent the tape blade from rising from the object surface. That means the user does not have to push the tape blade down to prevent the end of the tape blade from coming off the object end. By contrast, in Potter, the marking attachment 80 lies below the tape case. That means the tape blade will not sit flat on the object to be measured. It is important that the case bottom lie flat on the object. In order to mark the object in Potter, one hand will have to hold the tape blade tip down while the other hand makes the mark. This makes a one handed marking operation impossible to achieve in Potter.

Another important feature of the present invention is that the marker housing is integrally formed with the case so that it is much more durable. This is a very important feature as all other prior art devices are separate non-integral devices that have to be attached

to the tape case. As separate attachment devices, there are three major disadvantages: 1) because the attachment device adds extra volume to the tape measure case, it cannot be carried in a carpenter's tool case/belt; 2) if the tape measure is dropped, the attachment device will fall off or break; 3) time is wasted in installing the attachment device to the tape measure case. Although the durability issue may seem trivial to ordinary persons, it is actually a very important benefit. A typical carpenter goes through one tape measure every couple of months because of the rough treatment it is subjected to and the constant use. Accordingly, the carpenter does not have time to fumble with and install and reinstall the attachment device every time the tape measure is dropped and the attachment device falls off.

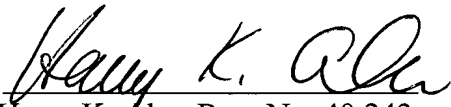
Another important feature of the present invention is the vertical recess that is provided in the front portion of the tape measure case and the indicator window that is positioned within the vertical recess. This allows a user to more precisely align the marker with the measurement increments.

None of the cited references, either individually or in combination, teach or suggest such a novel combination that includes an integrally formed marker housing, a vertical recess, an indicator window located in the vertical recess and an indication window which is positioned to be in alignment with the measurement increments.

Based upon the above amendments and remarks, Applicant respectfully requests reconsideration of this application and its earlier allowance. Should the Examiner feel that a telephone conference with Applicant's attorney would expedite the prosecution of this application, the Examiner is urged to contact him at the number indicated below.

Respectfully submitted,
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